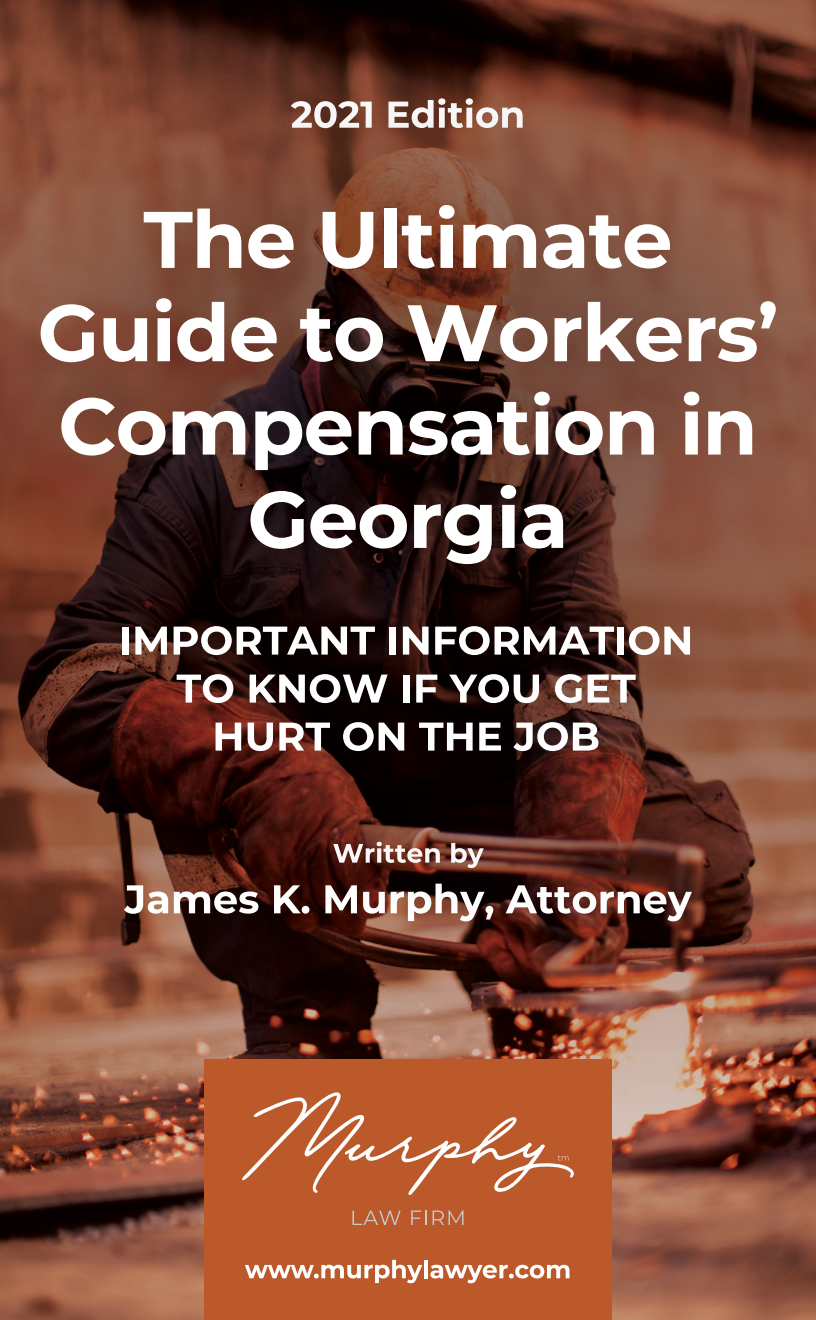

2021 Edition

The Ultimate Guide to Workers' Compensation in Georgia

IMPORTANT INFORMATION TO KNOW IF YOU GET HURT ON THE JOB

Written by

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Murphy™

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THE ULTIMATE GUIDE TO

WORKERS' COMPENSATION

IN GEORGIA

IMPORTANT INFORMATION

TO KNOW IF YOU

GET HURT ON THE JOB

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A NOTE FROM JAMES MURPHY

I can't tell you how relieved I am that you're reading this. You've made a very smart decision to educate yourself about workers' compensation.

This information will give you a basic understanding of Georgia workers' compensation. The truth is: **workers' compensation is a very complex system**, and most people don't understand how they can benefit from it. Injured workers who don't have legal representation are taken advantage of all the time by insurance companies because they don't have an understanding of workers' compensation law.

I have written this book so that people just like you could have good information before dealing with the workers' compensation insurance adjuster, or even hiring an attorney.

James Murphy

LEGAL DICLAIMER

Hey, what would a message from a lawyer be without a "disclaimer?"

Look, I can give you ideas and tips, and I personally guarantee that you won't have wasted your time by reading this book. However…

THIS BOOK IS NOT IS NOT LEGAL ADVICE. GEORGIA LAW REQUIRES THAT I INFORM YOU THAT WHAT IS IN THIS BOOK IS NOT LEGAL ADVICE. AN ATTORNEY CAN ONLY GIVE QUALITY LEGAL ADVICE WHEN HE OR SHE UNDERSTANDS THE SPECIFIC FACTS OF YOUR CASE. I CAN'T BE YOUR LAWYER UNTIL YOU AND I ENTER INTO A WRITTEN AGREEMENT FOR ME TO BE YOUR LAWYER. I CAN OFFER SUGGESTIONS AND TIPS, BUT PLEASE DON'T CONSTRUE ANYTHING IN THIS BOOK TO BE LEGAL ADVICE ABOUT YOUR CASE.

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GETTING INJURED AT WORK

Over the years of representing injured workers, I have seen that a work injury can change a family's life. One day you're working hard, and then suddenly you are hurt, and can't work at all.

If this has happened to you, then I know you have some very important questions on your mind.

- Will I lose my job if I can't go back to work?
- How will I pay my bills if I can't work?
- Does my employer legally have to help me?

Questions like these are actually common, and it's important you get the answers. That's why it's vital to understand how the Georgia workers' compensation system works. In some situations you may not need an attorney, but it's usually a good idea to at least get a free consultation from an attorney.

WORKERS' COMP BENEFITS AVAILABLE IN GEORGIA

There are a number of different types of benefits available to an injured worker, depending on the severity of the injury. To give you an idea of the benefits that might be available to you, I'm going to review the benefits I see most often in my practice.

- **Temporary Total Disability (TTD):**

    - TTD helps replace lost income if you are unable to work due to a work-related injury. For example, if you break your arm at work, and you cannot perform the job, you should be entitled to TTD benefits.
    - How do you qualify for TTD? If you are injured, you must miss seven (7) consecutive work days in order to qualify. After a twenty-one-day (21) waiting period, you should start receiving a weekly check.
    - How is your TTD check calculated? The weekly TTD check will be two-thirds (2/3) of your average weekly check, up to $525.00 per week. The wage is calculated based on the worker's gross wages for a thirteen-week (13) period before the injury happened.

- TTD does not **completely** replace a worker's lost income. The maximum you can receive in TTD benefits is $525.00 per week.

- **Permanent Partial Disability (PPD)**

  - Sadly, not all injuries heal. You may have a permanent injury, but it may allow you to continue working. In such a case, you should be eligible for a permanent partial disability award based on the percentage of your impairment.
  - The percentage of your impairment is given by your authorized treating physician in accordance with current AMA guidelines.
  - The benefit is payable to the employee for a permanent disability that is the direct result of an on-the-job injury. The percentage is calculated by the following formula:
    - **Multiply** the number of weeks assigned by State Board by the impairment percentage rating. Once you arrive at that total, then **multiply** the total by the current TTD rate.

- **Temporary Partial Disability Benefits (TPD)**

  - This benefit is payable to you when you return to work in a job that pays less as a result of your work injury.

- This benefit is payable for up to 350 weeks from the date of the injury. This lost wage amount is two-thirds (2/3) of the difference between your average weekly wage before the injury and after the injury. The maximum amount payable cannot exceed the maximum allowed under the law.

- **Catastrophic Designation**

  - What if the work injury you've sustained ends your ability to return to work? Workers' compensation could be responsible for paying you benefits for the rest of your life. To collect disability income benefits, your claim must be designated "catastrophic".
  - With other forms of benefits, there is generally a cap, or limit, to the number of weeks the benefits are offered. However, in a catastrophic case, there is no cap. Furthermore, there may be more benefit options available in these types of cases.
  - While there is a list of injuries that are considered catastrophic within the workers' compensation statute under Georgia law, catastrophic claims are often disputed.
    - Sometimes the catastrophic nature of an injury is obvious: A person is no longer able to walk, see, or hear.
    - In other cases, the severity may not be as clear.
  - Additional benefits not only include longer than usual weekly payments to compensate for wages, but also include benefits that cover retraining. In these cases,

it is much more likely that vocational rehabilitation is offered.

- Most insurance companies try to avoid the "catastrophic" designation of a claim since catastrophic claims cost them a lot more money.
- Beware! If a claim is designated "catastrophic", some insurance companies will try to change the designation of the claim to non-catastrophic.

For more details on how TTD, PPD, and TPD benefits are calculated, or to determine if you are eligible for workers' compensation catastrophic designation, you should contact an experienced Georgia workers' compensation attorney.

Georgia State Board of Worker's Compensation

In Georgia, the State Board of Workers' Compensation is located in downtown Atlanta at 270 Peachtree St. N.W., Atlanta GA 30303. However, hearings for workers' compensation are heard throughout the state.

Rather than having a judge and jury decide your case, a hearing officer will review the facts of your case by reviewing the medical reports and listening to lawyers of each party. A decision may be issued right away, or the hearing officer may take additional time to review all the evidence before coming to a decision.

The cases are not exciting, but the outcome is important to you. On the following page there is a very general description of how the process works and tips about things that might affect your case.

Here's a general description of <u>how the process works</u>, and some tips about things that might affect your case:

Report Your Injury: Always make sure you tell your employer when you've been hurt at work. Ask to have the injury documented in writing. Even if your employer does not complete a written report, make sure to document the date, time of injury, how it happened, where it happened, and whether there were witnesses. Also, keep all receipts and hospital records.

First Report of Injury Form (WC-1): Complete a "First Report of injury" form, also known as WC-1. Your employer is supposed to fill out the form, but if that doesn't happen, an attorney can help you. Once the WC-1 is completed, contact the State Board of Workers' Compensation to get your claim number. Everything that happens with your case will be linked to this claim number. Generally, an injured worker has one year from the date of the injury to file a claim.

Posted Panel of Physicians: Under Georgia law, you should be able to choose a doctor from the posted panel pf physicians, provided your employer has one. In the state of Georgia, you not only have the right to choose your own doctor from the panel, but you also have the right to make a one-time change to another physician on the panel. Selecting the right doctor is critical to your case. This is when the experience of an attorney can prove invaluable to you.

Mandatory Drug Testing: Your employer may be able to require you to take a drug test following your workplace injury. If you test positive, the test will be used against you to presume that your drug use contributed to the accident.

FREQUENTLY ASKED QUESTIONS

Q. If I file a workers' compensation claim, can I get fired?

Georgia is considered to be an employment "at will" state. This means an employer can fire you for any reason. However, in terms of your workers' compensation claim status, this could be beneficial for you. One tactic the insurance company uses is to return you to work as soon as possible, despite your injury. If you have been returned to work under a "light duty" status (or WC-240), your employer may create a job for you that fits into this light duty description. You generally have a 15-day trial period on light duty.

If you see that you cannot perform the light duty job, and you come out of work within the 15 days, your insurance adjuster may be required to reinstate your weekly check benefits even if you have been terminated.

However, in some circumstances, if the physician releases you to return to work on "full duty", with no restrictions, and your employer has terminated you, then workers' compensation may not be liable for sending you a weekly check.

Q. Can my employer put me under surveillance after a work injury?

It is possible that if you file a workers' compensation claim that your employer may put you under surveillance. The claim is usually handled by an insurance company, and as a way of trying to limit or deny your claim, insurance companies have been known to hire private investigators to follow claimants and try and catch them doing something the doctor reported they couldn't do.

These investigators may also talk to your neighbors, friends, and family about your habits and whereabouts. Any time you are in public you should assume you are under surveillance. Photos, videos, and audio recordings could be taken. Limiting your social media is also important, as investigators might troll your profiles looking for information or statements that could hurt your claim. That is why is it so important to follow your doctor's orders very strictly and not behave in a manner that could be taken out of context until your claim is settled or closed.

Q. What if my employer doesn't have a Panel of Physicians?

If your employer doesn't have a panel of physicians posted and visible, you may have the right to choose your own doctor. If the panel does not follow the State Board of Workers' Compensation guidelines, the panel is deemed invalid. If so, you have the right to choose your own doctor who is not on the panel of physicians. In case the insurance company argues that the panel was valid, it would be wise to take adequate photos and notes of the panel at the job site.

Q. What should I do if I'm injured at work?

1. Immediately report your injury to your supervisor or employer.
2. Seek medical treatment for your injury.
3. Get the advice of an experienced Georgia workers' compensation attorney.

Unless your workplace injury is very straightforward, the issues encountered in a workers' compensation case can be very technical and complex. The hearing officer and lawyers who do this work seem to speak a different language to each other, throwing around phrases like, "we've filed a WC-3," or "this hearing is set for an all issues hearing." If you do not know that language, and your employer has hired an attorney who not only speaks the lingo, but understands the nuances of the issues, you're probably going to be in trouble. It makes sense if your case has to go to the State Board of Workers' Compensation for you to have legal representation.

A lawyer should be able to maximize your claim so that you're compensated fairly. A lawyer practicing in this field understands when it's time to file certain claim, forms, or motions with the Board. Lawyers who don't practice this type of work likely do not understand the technical aspects, so find someone who makes workers' compensation a regular part of his/her practice.

Once you decide to hire an attorney, you'll have to sign a contract that provides the specifics of your agreement. Most of these contracts are simple. They should address the fee arrangement and the rights and obligations of both parties. Make sure your lawyer gives you a copy of the contract.

YOUR ATTORNEY ONLY GETS PAID WHEN YOU DO!

Hiring an attorney can cause stress, because for most of us, we don't do it every day. People want to make sure the lawyer knows what he is doing and will work hard to represent their interests. As in any business, it's natural to wonder how much the attorney services will cost.

Most attorneys who represent injured workers work on what's called a contingency fee basis. That means that the lawyer's fee depends on the amount of recovery.

In Georgia, the contingency fee us twenty-five percent (25%) of the settlement. The arrangement is usually advantageous to both the client and the attorney. The lawyer takes a risk that he'll never get paid if the claim goes nowhere. The client gets to pursue his claim, represented by an attorney without having to pay a lot of money up from for legal fees. Without this arrangement, some people never would be able to hire an attorney, because they couldn't afford it.

We all want to minimize expenses, but sometimes we have to pay for professional services. Let's face it, when you are sick you call a doctor. When you face a legal problem, you should contact a lawyer. When you're talking about trying to replace a portion of the income you've lost from being hurt at work, can you really afford to handle the case yourself?

We Can Help You

Below is a list of information about me as an attorney. I've been practicing for over twenty years. When I'm not at work, I enjoy volunteering for my Catholic Church, coaching my kids' soccer teams, going to baseball games, and spending time with my beautiful wife, Charlotte, and our three awesome kids, Patrick, Ryan, and Juliet.

The following list briefly describes some of my education, legal affiliations, and professional experience:

- I am a Martindale Hubbell "BV" rated attorney
- I was admitted to the Georgia Bar in 1991; the U.S. District North Distract of Georgia
- I graduated with honors from the State University of New York at Genesco, where I received my B.A.
- I received my J.D. from the State University of New York at Buffalo
- I worked as a supervising attorney for seven years with the Georgia Legal Services Program, and then entered private practice. Since then I have focused on auto accident and workers' compensation cases.
- I am a member of the Association of Trial Lawyers of America and Georgia Trial Lawyers.

CONCLUSION

I hope this book serves as a helpful resource for understanding workers' compensation. The issues involved are technical and complicated. You can try to handle your case yourself, but usually you are at a huge disadvantage if you try to go against the insurance companies yourself. Remember to select an attorney who routinely handles workers' compensation cases because experience is important.

If you think we can help you with your case, please call us at 770-577-3020. A receptionist will gather some information and connect you with the lawyer.

To learn more about our office, visit www.murphylawyer.com.

CONSULTATIONS ARE FREE

Our consultations are 100% Free, and there are no obligations or hidden fees associated with it. We can meet with you to discuss your situation at your convenience. We'll work hard to get you the best result possible for your workers' compensation claim.

DISCLAIMER: We are happy you took time to read this book. You should note, however, that ordering or reading our book does not create an attorney-client relationship. We also aren't offering a legal opinion in this book because each case is different, based on the facts of the situation. If you would like our legal opinion, please schedule a free meeting with Attorney James Murphy at 770-577-3020.

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